

CASE SUMMARY

Conditional District Rezoning

MEETING:	City Council, October 17, 2007
CASE NO:	CD-11-1205
SITE ADDRESS:	527 Old MacCumber Station Road
PROPOSAL:	Request to rezone subject site from R-15, Residential District to MF-M(CD) Multiple Family Medium Density Conditional Zoning District for a 166-unit multi-family development
PRESENTED BY:	Ron Satterfield, Interim Planning Manager
STAFF RECOMMENDATION:	CONDITIONAL APPROVAL

STAFF REPORT HAS BEEN UPDATED SINCE THE JULY 11, 2006 CITY COUNCIL MEETING

GENERAL INFORMATION

Applicant/Agent:	Nick Lauretta Stewart Engineering Suite 103 201 N. Front Street Wilmington, NC 28401
Owners:	Arbor Pointe, LLC Steve Silverman, Principal P.O. Box 1011 Wrightsville Beach, NC 28480
Purpose:	Rezone subject site to MF-M(CD), Multiple Family – Medium Density Conditional Zoning District for a 166-unit multi-family development
Current Zoning:	R-15, Residential District
Size:	15.03 acres
Existing Land Use:	Vacant
CAMA Land Classification:	Watershed Resource Protection, Conservation

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Surrounding Land Use & Zoning:

NORTH	Mobile Home Park	MHP
SOUTH	Single Family; Vacant	R-15, O&I-1
EAST	Vacant	R-15
WEST	Street R/W, Single Family	R-15

SUMMARY

The subject site is vacant and consists of 14.93 acres. The site is adjacent to an existing mobile home park that is zoned MHP, Manufactured Housing Park. Except for one parcel zoned O&I-1, the tracts around the subject site are zoned R-15. Part of the site lies within the 100-year floodplain as defined by FEMA. The eastern property line of the tract roughly follows a stream alignment which is an existing tributary of Howe Creek.

The applicant proposes to develop the subject site with 166 condominium units constructed in 2, two-story and 3, three-story buildings. Ten one-bedroom units, 90 two-bedroom units and 66 three-bedroom units are proposed for construction, with parking provided by a combination of garages and surface parking lots. Approximately 6.3 acres of the site is proposed for open space. Half of the required open space on the site is provided for active use and half will be for passive use.

This subject site is in an area designated on the Wilmington – New Hanover County CAMA Land Classification Map as Watershed Resource Protection and Conservation. The maximum number of units permitted on the property is 2.5 units per acre as dictated by the CAMA Plan. The CAMA Plan states that "residential density greater than 2.5 units per acre may be considered for exceptionally designed projects." Article 10 of the City Land Development Code provides the criteria for reviewing a project to determine if it is "exceptionally designed" and to what degree density may be allowed to exceed the maximum of 2.5 units per acre. A project that satisfies the criteria could be considered for higher density, up to the maximum density for the underlying zoning. The density proposed by the applicant for the subject tract is 11.14 units per acre.

The applicant proposes to construct approximately 183,200 square feet of impervious surface on the site. Pervious asphalt and concrete will be used throughout the development, resulting in areas totaling 123,827 square feet of functionally impervious surfaces.

TECHNICAL REVIEW

The Technical Review Committee reviewed the conceptual plan at the October 27, 2005 meeting.

Public Utilities:

The subject property does not currently have access to public water. A City public water main is located a distance of 500 feet away along Old MacCumber Station Road. If this request is approved, the developer will be required to extend water to and within the site and loop the water system. Fire hydrants will be installed by the developer consistent with City

technical requirements. Although a public sewer outfall (New Hanover County) is located in the eastern portion of the subject property, no new wastewater flow is currently permitted since the sewer main connects to the Northeast Interceptor (NEI). The moratorium currently in place regarding new hookups applies to the subject property.

Parking:

A minimum of 344 parking spaces is required to serve the proposed development. The applicant is proposing 393 parking spaces with 108 surface parking spaces and 285 garage (below surface grade) spaces. The developer proposes extensive use of porous asphalt and pervious concrete for parking, drive aisles and sidewalks in the project.

Stormwater:

The proposed development is a major development and it will disturb more than one acre of land; therefore, the requirements of both the City of Wilmington and the State of North Carolina Stormwater Management Ordinances will apply. The applicant is proposing to construct infiltration basins on the site to accommodate stormwater runoff. A substantial basin will be located in the center of the site with secondary basins located around the perimeter. City and State Stormwater discharge permits as well as a New Hanover County Erosion Control Permit will be required.

The applicant has proposed that site controls for stormwater retain the 10-, 25-, and 50-year design storms to gain bonus points under the Article 10 Exceptionally Designed Project Standards. Additionally, the applicant has committed to stormwater controls such that the time of concentration (Tc) for stormwater leaving the site under predevelopment conditions is maintained for post development conditions.

Environmental, Conservation Overlay District and Exceptional Design Criteria:

Based on Article 10 of the LDC this project, as proposed, will qualify for consideration as an "exceptionally designed project". Proposed residential development, located in an area designated Watershed Resource Protection and Conservation shall be eligible for allowable development density increases if the project meets special guidelines. Specifically, Article 10 states that exceptionally designed projects must construct no more than a total of 25% of gross site area in impervious surfaces.

The site plan responds to staff concerns regarding the exceptionally designed project standards; therefore, staff has determined that the proposal complies with exceptionally designed project criteria. Efforts have been consistent to propose construction of environmentally responsible development on this site by the applicant. The developer will be required to provide satisfactory stormwater plans that will demonstrate the performance that is claimed in the Environmental Design Criteria submittal.

Up to 15% of the site is located within a mapped Conservation Overlay District (COD). The COD area is designated as Swamp Forest and it parallels the Howe Creek tributary on the eastern edge of the site. This portion of the site also features approximately 4.12 acres of wetlands. The applicant is required to obtain an approved delineation of Section 404 wetlands by the U.S. Army Corps of Engineers (USACOE). According to the applicant's estimates, they propose to preserve approximately 90% of the wetlands that exist on the site. While the applicant proposes to impact 0.26 acres of wetlands, they will reconstruct replacement wetlands onsite for the areas disturbed. Approval of a disturbance permit from the USACOE will be required prior to issuance of any release for construction. In addition, the conservation resource and appropriate setback will need to be delineated on the site

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plan.

The COD ordinance requires that development of the site accommodate infiltration of the first 0.25 inch of rainfall runoff from all impervious surfaces of the site. The proposed stormwater management system must meet this requirement.

Landscaping, Buffering and Tree Protection:

Substantial vegetation exists on the site. It is located in an area of 3.7 acres inside the 100-year floodplain line; this area runs parallel to the Motts Creek tributary on the east side of the property. This area contains wetland species in thick undergrowth with minimal hardwoods (fewer than 10 percent) present. Some Hollies and Dogwoods are present. All vegetation is proposed to be preserved in this area as shown by a clearing limits line on the plan. However, most of the site lies outside the floodplain line, and this area has minimal vegetation since the site was logged within the past four years. The marginal vegetation which occupies most of the site appears to have been planted after timber harvesting so as to prevent major erosion.

Trees within 20 feet of the perimeter property lines and all regulated trees are to be retained unless required essential site improvements necessitate removal. Any construction of site development features required by any government agency, such as grading, underground drainage, driveways, and the midpoint between the minimum and maximum off-street parking is considered to be an essential site improvement. Also, Article 8 of the Land Development Code requires 15 trees to be planted or to remain on the site for every acre disturbed.

An 18-foot street yard is required along the Old MacCumber Station Road frontage and is proposed by the applicant. Areas of foundation plantings are required along building faces adjacent to parking areas and they must equal or exceed 12% of the area of the building face. A minimum of 8% of the interior parking lot must be landscaped.

Open Space:

A minimum of 5.2 acres of active and passive recreation and open space is required for the proposed development. A recreational field, pool/clubhouse and tennis court is proposed in the 2.6-acre center courtyard area to satisfy the code requirements for the minimum active recreational and open space areas. The undisturbed 3.7-acre area located on the eastern side of the site exceeds the requirement for 2.6 acres of passive recreational open space. Approximately 1 acre of the passive open space area lies within wetlands. Up to 50 percent of required passive open space, or 1.3 acres, may be located within wetlands.

Traffic and Transportation:

As proposed, access to the site will be provided by two driveways from Old MacCumber Station Road. The Technical Standards and Specifications Manual requires a public street to be provided to serve any multi-family development which contains more than 50 units and it also prohibits parking spaces from being more than 500 feet (as a vehicle drives) from a through street. To comply with the LDC and Technical Standards and Specifications Manual, the applicant proposes a public street to extend into the site from Old MacCumber Station Road. Also, per the Technical Standards and Specifications Manual, the combination of the public street and private driveway cannot exceed 800 linear feet.

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The applicant will install two stub-outs to provide turnarounds on the entry road that is proposed into the project from Old MacCumber Station Road. At its June 2006 meeting, the SRB, granted the necessary waivers and approved the Preliminary Subdivision Plan.

Old MacCumber Station Road currently consists of 20 feet of ribbon pavement which extends approximately 1,150 feet from Military Cutoff Road across approximately one-half of the subject property. From that point, Old MacCumber Station Road is an unimproved dirt road within a public right-of-way. The developer is required to improve Old MacCumber Station Road in order to meet the specifications of a City standard collector street.

Old MacCumber Station Road provides direct access for the subject site to Military Cutoff Road. Part of Old MacCumber Station Road (in the area of the site) consists of publicly maintained right-of-way, and the remaining right of way is private. The Arbor Pointe developers will be required to improve Old MacCumber Station Road to City standards along their frontage and install a temporary turnaround beyond their second entrance. Developers of the Pines at Research Park project to the south are required to construct Old MacCumber Station Road to connect it at the end of the pavement constructed by the Arbor Pointe developers. A 5-foot sidewalk is required to be installed by the Arbor Pointe developers along their Old MacCumber Station Road frontage.

The following table indicates the difference between the estimated traffic generation from single-family development and the proposed multi-family development. The proposed project is expected to generate 77 and 91 trips respectively during the a.m. and p.m. peak hours and 988 average daily trips. The table indicates that the estimated trips generated by the proposed development will increase traffic by 582 vehicles per day.

ZONING	Land Use	Intensity	AM Peak Hour Trips	PM Peak Hour Trips	Average Daily Trips
Existing R-15	Single-Family	36 units maximum	35	43	406
Proposed MF-M(CD)	Multi-Family	166 units proposed	77	91	988

The applicant submitted a Traffic Impact Analysis (TIA) that has been reviewed by staff. If the rezoning is approved, City Transportation Planning and Traffic Engineering Staff will re-evaluate the TIA after the Military Cutoff Road widening to determine whether any additional improvements will be necessary for the proposed development. All of Arbor Pointe's access is via Old MacCumber Station Road to Military Cutoff Road and thus it is within the project boundary of the NCDOT Transportation Improvement Project - Military Cutoff Road Widening.

A traffic count on Military Cutoff Road on August 17, 2007 between Covil Farms Road and Arboretum Drive indicated a two-way volume of 28,700 vehicles per day (VPD). The widening is anticipated to be complete in October 2007. Once the widening is complete, Military Cutoff Road will be a four-lane divided facility from Market Street to Drysdale Drive. When the widening is completed, the carrying capacity of this section of the Military Cutoff roadway will be approximately 32,500 vehicles per day.

In December 2006, the City Council adopted a Resolution Authorizing Staff to Utilize the Criteria to Support Rezoning on Over Capacity Roads in the Analysis of Rezoning

Requests (see attachment #9). The Criteria were intended to allow developers an option to provide evidence that their proposal would benefit the community by offsetting the traffic impact or by providing a more needed community amenity. Of the seven approved criteria, the applicant suggests that three will be met if the project is approved. The applicant believes that first the MF-M (CD) zoning proposed for the site ensures a more efficient, environmentally sensitive development pattern (Criteria #4). Second, the impact of additional traffic will be mitigated by a scheduled/ funded State transportation project – the Military Cutoff Road Widening (Criteria #5).

Third, Arbor Pointe qualifies under LDC Article 10 as an exceptionally designed project. The design as submitted proposes construction of environmentally responsible development on this site by the applicant. Through use of the proposed landscaping, stormwater concept and pervious materials the applicant believes that Arbor Pointe will positively impact other critical infrastructure and environmentally sensitive land. Specifically, they will create a net gain in wetlands and relief of the stormwater runoff from their site, resulting in less erosive force on the estuarial stream (Criteria #7).

ANALYSIS

The applicant is requesting MF-M, Multiple Family Residential District-Medium Density Conditional Zoning District zoning with a maximum density of 17 d.u./ac. However, because the subject site is designated as Watershed Resource Protection and Conservation on the CAMA Land Classification Map, density is limited to 2.5 d.u./ac. Density above 2.5 d.u./ac. is permissible only if exceptional design criteria outlined in Article 10 of the LDC are achieved. The applicant requests zoning to allow a maximum density of 11.14 d.u./ac.

The MF-M zoning district is established for moderate density single-family and multiple-family developments of varying types and designs. It functions as a transitional land use between intensive nonresidential uses or higher density residential areas and lower density residential areas. The district is designed to respond to the varying housing needs of the community while affording a reasonable range of choice, type and location of housing units within the City.

Chapter II – Infill- Development of Vacant Land

Objective 3.1: Infill sites identified as “Small-Tract Varied Use Areas” on the *Infill Map* may be developed as zoned or considered for rezoning to new uses that will enhance the functionality and promote the economic vitality of the surrounding areas.

Applicability:

While the subject site is not identified as a Small-Tract Varied Use property, it does have some of the characteristics associated with these properties. These properties are generally located in areas with a varied land use pattern where residential and commercial uses are in proximity of each other. There is a tremendous amount of growth and development along the Military Cutoff Road corridor. There are also a variety of zoning districts in the immediate vicinity of the subject site ranging from R-15 to MX.

Two residential developments on adjacent tracts to the east are currently under construction

and maximum build-out of these parcels will occur with single-family homes at moderate densities. The moderate density, multi-family development proposed for the subject property represents a more efficient development pattern. The development also proposes the utilization of development practices that involve fewer environmental impacts.

Chapter III-A – Environmental Resources

Applicability:

Several of the strategies in the Environmental Resources Chapter of the FLUP are pertinent to the request. The applicable strategies are structured towards the City promoting development that does not negatively impact the natural environment. The subject development would meet several of these strategies in order to qualify for the density bonuses described in the exceptionally designed criteria.

CONCLUSIONS

- 1) The applicant is requesting consideration of increased allowed density by incorporating elements of “exceptionally designed projects” (as set forth in Article 10 of the LDC) to better protect site environmental resources.
- 2) This project design incorporates significant low-impact design features that would reduce environmental impacts compared to a project developing to the density allowed by right meeting only the minimum environmental code requirements.
- 3) The area around the subject property consists of properties which are zoned R-15, O&I-1 and MHP.
- 4) If this rezoning request is approved, a portion of Old MacCumber Station Road must be improved to residential collector street standards by the developer.
- 5) Military Cutoff Road is currently being widened. The estimated completion date is October 2007.
- 6) The development proposes a more efficient, environmentally sensitive development pattern, and the impact of its additional traffic will be mitigated by a scheduled/funded State transportation project – the current widening of Military Cutoff Road. These represent two of the Criteria to Support Rezoning on Over Capacity Roads.
- 7) This rezoning proposes to improve existing erosive conditions and enhance the wetlands adjacent to the Howe Creek tributary to the east. It is anticipated that any development proposed for the subject tract will accomplish this goal.
- 8) The applicant has provided documentation addressing the 7 Criteria to Support Rezoning on Over Capacity Roads. Staff believes the applicant meets the intent of 3 of the 7 criteria.
- 9) The rezoning is generally consistent with the strategies and policies of the City’s Future Land Use Plan.

RECOMMENDATION

Based on the information found in the case summary, staff recommends conditional approval of the request.

Recommendations for conditions of approval include:

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- 1) The site shall be developed in accordance with the approved site plan, including utilization of all of the "Exceptionally Design Criteria" as noted on Attachment 6.
- 2) The developer shall construct Old MacCumber Station Road to City standards for an adequate length so as to accommodate the second entrance to the development.
- 3) A temporary turnaround, acceptable to the City, shall be installed by the developer to remain in place until the construction of Old MacCumber Station Road connects from the south.
- 4) The developer shall provide stormwater controls to retain the 10-, 25-, and 50-year design storms and to ensure that the time of concentration (Tc) for stormwater leaving the site under predevelopment conditions is maintained for post development conditions.
- 5) Wetlands delineation for the subject site, accepted by the USACOE, shall be provided to the City at the time construction plans are submitted.
- 6) Wetlands disturbance permits as necessary shall be obtained by the developer and provided to the City Development Services Department prior to release of the project for construction.
- 7) City Transportation Planning and Traffic Engineering staff will re-evaluate the Traffic Impact Analysis after completion of the Military Cutoff Road widening to determine whether any additional improvements will be necessary for the proposed development. The developer shall be required to construct improvements in accordance with these recommendations.
- 8) This development shall be subject to all moratoriums in place at the time of submission (including but not limited to prohibition of new flow into the Northeast Interceptor) of construction plans for review by the City.
- 9) All City, State and Federal regulations shall be met.
- 10) All Technical Review Committee requirements shall be met.

NEIGHBORHOOD CONTACT

City Notifications:

Signs Posted
Adjacent Letters
Advertisement Dates

Planning Commission

4/20/06
4/20/06
4/28/06

City Council

9/20/07
9/20/07
9/28/07, 10/5/07

General Inquiries:

Mark Sheffield, James Sheffield

Community Meeting:

11/22/05

Information from the community meeting: In addition to the applicants, seven people attended the meeting. Concerns were raised regarding storm drainage and the type of improvements which the developer would provide to Old MacCumber Station Road. The assurance that the applicant provided was that future engineering plans would address these concerns. The applicant also took the opportunity to explain building heights and placement of the structures on the site.

ACTIONS TO DATE

Planning Commission:

1/4/06 – Continued 5-0

2/1/06 – Continued 6-0

5/4/06 - Vote tied 3-3

Information from the January 4, 2006 Planning Commission Meeting: At the request of the applicant, the Planning Commission approved a continuance for this application to the February 1, 2006 meeting.

Information from the February 1, 2006 Planning Commission meeting:

At the request of the applicant, the Planning Commission continued this item to be considered at the May 3, 2006 meeting. Neighbors from the adjoining Lucia Point neighborhood expressed concern that having large multifamily or condominium structures near their rear yards would create undesirable impacts. The applicant agreed to consider re-sizing buildings in proximity to Lucia Point. Their revised proposal features 2-story rather than 3-story structures along Old MacCumber Station Road. The total number of units proposed has been reduced from 186 to 166. Despite the reduction in the number of units, the impact of the traffic generated by the proposed development remains substantial. Military Cutoff Road does not have the capacity to handle the additional traffic proposed with this development.

Information from the May 3, 2006 Planning Commission meeting:

No one other than the applicant spoke in favor of the application. One neighboring property owner stated his opposition to the rezoning. He stated the subject property and the surrounding area is currently zoned for single-family residential and increasing the density of development will be inappropriate.

The applicant's traffic consultant commented that the project will have an insignificant impact on intersections along Military Cutoff Road when the NCDOT improvements are completed. However, the future level of service of the signalized intersections will not be known until the full signal system in the area can be coordinated after construction. Although the proposed development may not substantially impact some intersections in the future, the road itself currently carries significantly more cars than it is designed to handle ($V/C = 165\%$). The nearly 1,000 trips generated by this project will all be new trips on the road (the site is currently vacant and all trips will originate from residential units, so there is no pass-by traffic to other commercial destinations). Therefore, Military Cutoff Road can not safely accommodate the extra volume at this time.

Members of the Planning Commission expressed their concern about current excessive traffic on Military Cutoff in the vicinity of this project. The commissioners also noted that access to the property is inadequate since the applicant would have to obtain a waiver from the Subdivision Review Board regarding the city standard requiring buildings to be located within 500 feet from a public street or 800 feet from an intersecting through street. Staff commented that this requirement would be addressed at the time the development is brought before the city Subdivision Review Board (SRB) for review and approval of a Preliminary Subdivision Plan.

The Planning Commission vote resulted in a tie, which is the equivalent to no action being taken – neither approval nor denial. In this situation, the application moves forward to the City Council with no recommendation from the Planning Commission.

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Information Since the Planning Commission Meeting:

With no discussion, the City Council by a 7 – 0 vote, continued the Conditional District Rezoning to the July 11, 2006 Council meeting to allow the development to be reviewed by the Subdivision Review Board.

City Council:

6/6/06 – Continued 7-0

Staff recommended continuance of this item in order for technical review by the Subdivision Review Board (SRB) to occur.

Subdivision Review Board:

6/28/06 – conditionally approved Preliminary Plan 5-0

No one spoke in favor of or opposition to the project at the Subdivision Review Board (SRB) meeting. The SRB discussed several issues with the project including access to the site and utility services. After discussing the project, the SRB voted 5-0 to conditionally approve the Preliminary Plan and also granted a variance to permit the combination of the public street and private driveway to exceed 800 linear feet as measured from Military Cutoff Road.

City Council:

7/11/06 – Tabled 7-0

Information Since July 2006:

Staff received a request in July 2007 from the applicant requesting consideration of this rezoning petition by the City Council. At its meeting of August 7, 2007 the City Council adopted a resolution bringing the Arbor Pointe condominium rezoning forward for consideration.

City Council:

10/02/07 – Continued 6-0

At the request of the applicant, Council continued this item to the October 17th Council meeting.

ATTACHMENTS

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1. Location Map (12/20/05)
 2. Site Plan (dated received 8/28/07)
 3. Building section and perspective drawings (dated received 4/18/06)
 4. Building elevations (dated received 11/16/05)
 5. Rezoning application (11/16/05)
 6. Exceptional Design Criteria Narrative (Stewart Engineering dated Received 9/17/07)
 7. Aerial Photo - 2006
 8. Resolution bringing Arbor Pointe Rezoning Forward: Adopted by City Council on August 7, 2007
 9. Criteria to Support Rezoning on Over Capacity Roads
 10. March 2, 2007 letter from Stewart Engineering
 11. May 3, 2006 Planning Commission Meeting Minutes
 12. Ordinance

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 10/17/2007

**Ordinance Amending the Official Zoning Maps
of the City Adopted March 27, 1984
(CD-11-1205) (Continued to October 17, 2007)**

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to change or modify zone boundaries within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code.

THEREFORE, BE IT ORDAINED:

SECTION 1: The Official Zoning Maps of the City of Wilmington are hereby amended by removing the hereinafter described tract of land from the present R-15, Residential District Classification and putting it in the MF-M(CD) Multiple Family-Medium Density Residential Conditional Zoning District Classification, said tract being more particularly described as follows:

527 Old MacCumber Station Road – BEGINNING at the intersection of the northeasterly right-of-way of MacCumber Station Road (60 foot right-of-way), also known as SR 1471 (the portion of MacCumber Station Road opposite the point of Beginning is an extension of SR 1471) and the run of Big Branch. Running thence from said Beginning point:

- 1) north 28 degrees 02 minutes west 541.69 feet along the northeasterly right-of-way line of said MacCumber Station Road to a point; thence
- 2) north 29 degrees 52 minutes west 673.84 feet along said easterly right-of-way line to a point, said point being the southernmost corner of a tract deeded to Charles G. Bryant by deed recorded in Book 1000 at Page 438 (Tenth Tract) of the New Hanover Registry; last said point being opposite a point on the centerline of MacCumber Station Road that is south 29 degrees 52 minutes east 607.00 feet, more or less, as measured along the centerline of said MacCumber Station Road from its intersection with the centerline of Military Cutoff Road (100 foot right-of-way) also known as SR 1471; thence
- 3) north 61 degrees 16 minutes east 319.23 feet along the southeasterly line of said tract to a point on the southerly line of a tract deeded to E.B. Towles by deed recorded in Book 785 at Page 74 of said Registry; last said point also being on the northerly line of a tract deeded to Dock McAllister and wife Sandy Daniels McAllister by deed recorded in Book 971 at Page 876 of said Registry; thence
- 4) south 59 degrees 42 minutes 32 seconds east 684.37 feet along the dividing line between said Towles and said McAllister Tract to a point; thence
- 5) south 82 degrees 12 minutes 32 seconds east 373.08 feet along last said dividing line and along the centerline of an old road bed to an old iron pipe in the run of said Big Branch;

thence

6) up and with the run of said Big Branch as it meanders in a southerly and westerly direction the following courses and distances:

South 60 degrees 16 minutes 54 seconds west 26.90 feet,
 North 61 degrees 37 minutes 30 seconds west 36.19 feet,
 South 67 degrees 24 minutes 25 seconds west 62.91 feet,
 North 87 degrees 46 minutes 12 seconds west 62.17 feet,
 South 43 degrees 08 minutes 30 seconds west 64.45 feet,
 South 59 degrees 40 minutes 37 seconds west 30.31 feet,
 South 82 degrees 26 minutes 13 seconds west 30.04 feet,
 South 83 degrees 54 minutes 03 seconds west 30.85 feet,
 South 01 degree 04 minutes 44 seconds east 58.71 feet,
 South 22 degrees 22 minutes 00 seconds west 26.82 feet,
 South 59 degrees 06 minutes 13 seconds west 31.04 feet,
 South 30 degrees 20 minutes 11 seconds west 53.36 feet,
 South 46 degrees 35 minutes 43 seconds west 10.41 feet,
 South 61 degrees 11 minutes 46 seconds east 30.60 feet,
 South 44 degrees 23 minutes 49 seconds east 21.76 feet,
 South 26 degrees 50 minutes 38 seconds west 30.33 feet,
 South 07 degrees 39 minutes 46 seconds west 13.47 feet,
 South 47 degrees 59 minutes 17 seconds east 11.12 feet,
 South 08 degrees 08 minutes 45 seconds west 38.20 feet,
 South 01 degree 53 minutes 56 seconds west 11.28 feet,
 South 30 degrees 29 minutes 04 seconds east 13.88 feet,
 South 03 degrees 20 minutes 44 seconds west 26.22 feet,
 South 17 degrees 20 minutes 44 seconds west 19.16 feet,
 South 44 degrees 51 minutes 11 seconds west 34.75 feet,
 South 06 degrees 24 minutes 06 seconds east 18.88 feet,
 South 43 degrees 31 minutes 56 seconds west 25.87 feet,
 South 79 degrees 37 minutes 31 seconds west 36.72 feet,
 South 62 degrees 59 minutes 27 seconds west 7.64 feet,
 North 73 degrees 40 minutes 06 seconds west 16.84 feet,
 North 84 degrees 31 minutes 20 seconds west 12.85 feet,
 South 09 degrees 16 minutes 15 seconds west 20.88 feet,
 South 56 degrees 53 minutes 33 seconds west 49.15 feet,
 South 72 degrees 53 minutes 15 seconds west 33.13 feet,
 South 68 degrees 38 minutes 07 seconds west 17.84 feet,
 South 56 degrees 53 minutes 30 seconds west 7.70 feet,
 North 01 degree 17 minutes 26 seconds east 16.88 feet,
 North 06 degrees 32 minutes 10 seconds west 12.46 feet,
 South 80 degrees 35 minutes 24 seconds west 10.22 feet,
 South 56 degrees 53 minutes 26 seconds west 39.64 feet,
 South 27 degrees 49 minutes 26 seconds west 33.16 feet, and
 South 19 degrees 04 minutes 15 seconds west 47.86 feet to the point of BEGINNING.

The above described tract contains 15.025 acres, more or less. The same being a portion of said tract deeded to Dock McAllister and wife Sandy Daniels McAllister by said deed recorded in Book 971 at Page 876 of the New Hanover County Registry.

Subject, however, to a 30 foot wide Public Water and Sanitary Sewer Easement to New Hanover County Water and Sewer District recorded in Book 1917 at Page 707 of the New Hanover County Registry.

Also subject to a power line right-of-way to Carolina Power & Light Company recorded in Book 375 at Page 307 of said Registry.

SECTION 2: The following rules, regulations and conditions shall apply to the property described in this ordinance:

- 1) The property shall be subject to all of the specific requirements stated in the Land Development Code for the proposed use as well as any additional conditions stated below.
- 2) If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceeds shall be instituted to rezone the property to its previous zoning classification.
- 3) The use and development of the subject property shall be in accordance with the plan as submitted and approved. The permitted use shall be restricted to a 166 unit condominium.
- 4) The use and development of the subject property shall comply with all other supplemental regulations and requirements imposed by the Land Development Code or any other applicable federal, state or local law, ordinance or regulation. In the event of a conflict, the more stringent requirement or higher standard shall apply.
- 5) The site shall be developed in accordance with the approved site plan, including utilization of the Exceptional Design Criteria as noted on Attachment 6.
- 6) The developer shall construct Old MacCumber Station Road to city standards for a length of approximately 1,290 feet past the second entrance (whichever is greater) to the Arbor Pointe Development.
- 7) A turnaround, acceptable to the city shall be installed by the developer at the end of the newly constructed Old MacCumber Station Road.
- 8) The developer shall provide stormwater controls to retain the 10-, 25-, and 50-year design storms and to ensure that the time of concentration T_c for stormwater leaving the site under predevelopment conditions is maintained for post development conditions
- 9) Wetlands delineation for the subject site, accepted by the USACOE, shall be provided to the City at the time construction plans are submitted.
- 10) Wetlands disturbance permits as necessary shall be obtained by the developer and provided to City Development Services prior to release of the project for construction.
- 11) This development shall be subject to all moratoriums in place at the time of submission (including but not limited to prohibition of new flow into the Northeast Interceptor) of construction plans for review by the City.
- 12) All City, State and Federal regulations shall be met.
- 13) All Technical Review Committee requirements shall be met.

SECTION 3: The City Clerk and the Planning Manager are hereby authorized and directed under the supervision of the City Manager to change the Zoning Maps on file in the office of the City Clerk and the Planning Division, to conform with this ordinance.

SECTION 4: That any person violating the provisions of this ordinance, including the approved site plan, shall be subject to the penalties set forth in Section 18-52 of the Land Development Code.

SECTION 5: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 7: This ordinance shall be effective immediately upon its adoption.

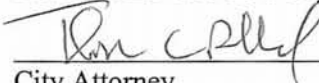
Bill Saffo, Mayor

Adopted at a _____ meeting
on _____, 2007.

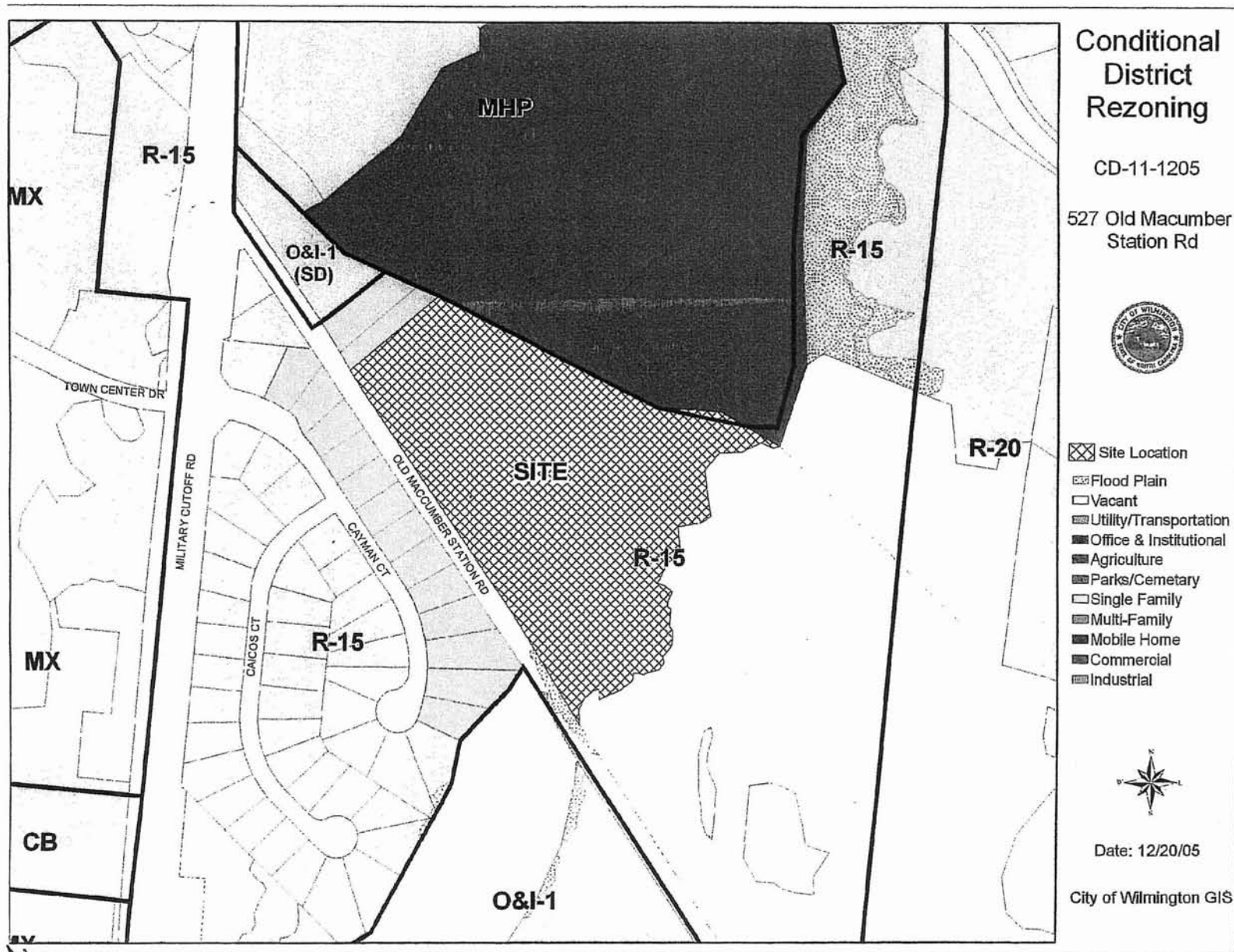
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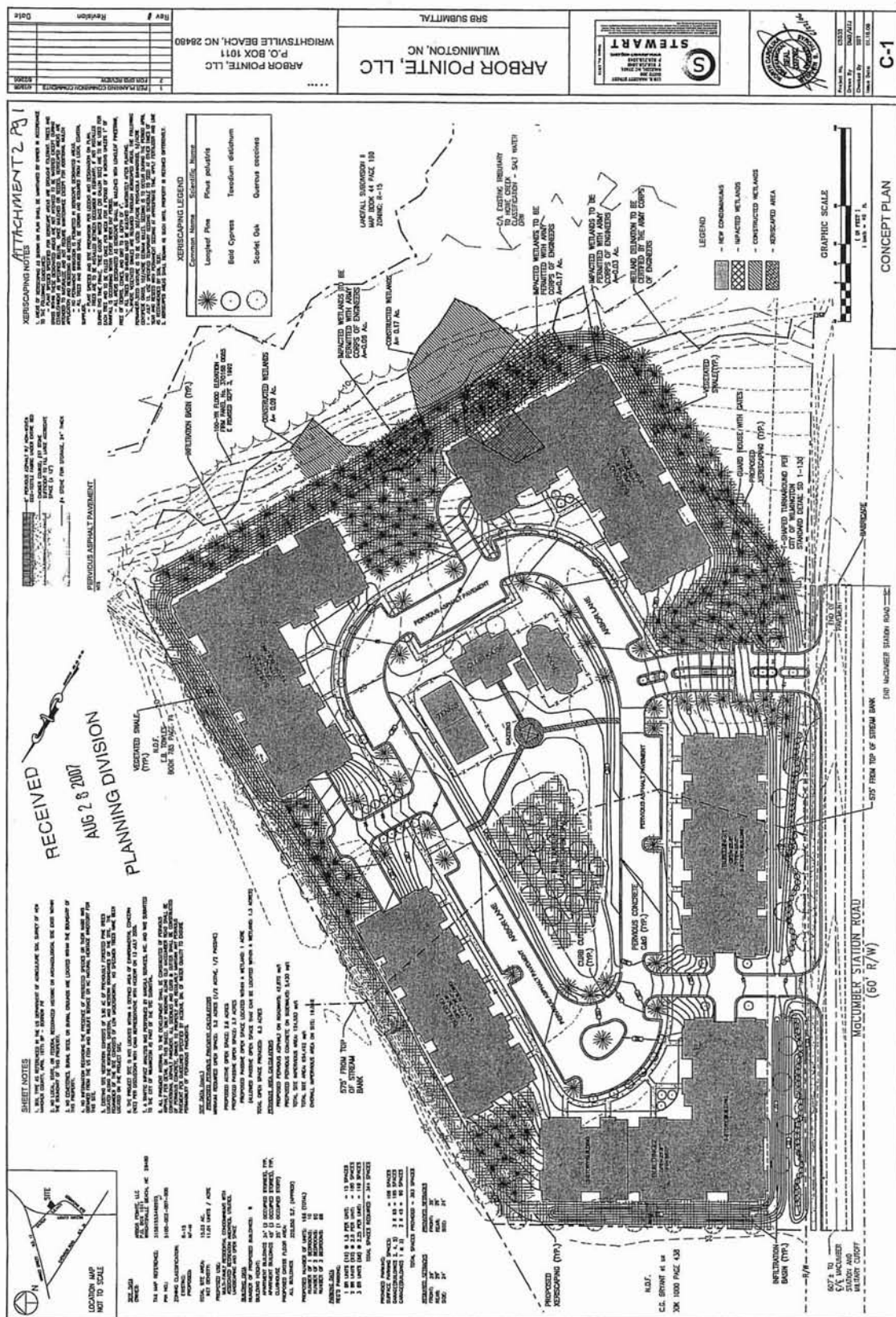
City Clerk

APPROVED AS TO FORM:



City Attorney





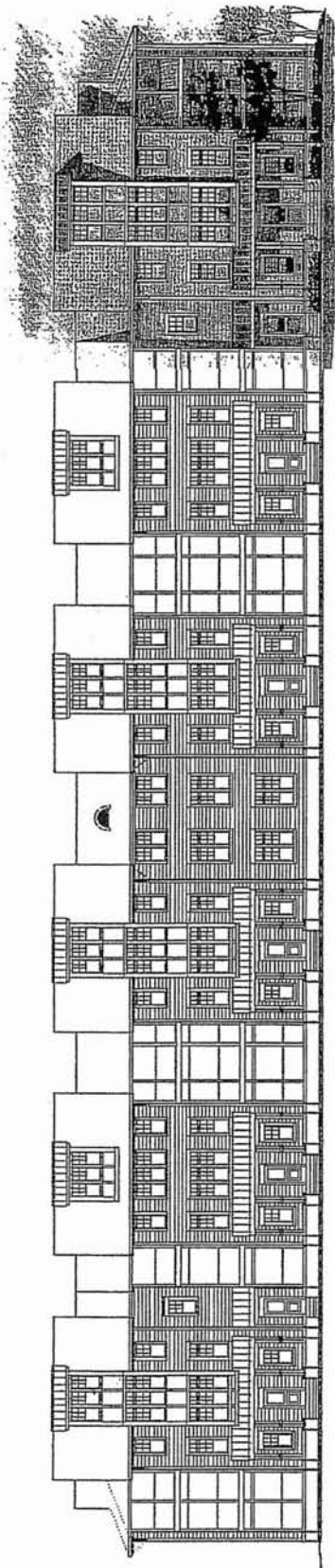
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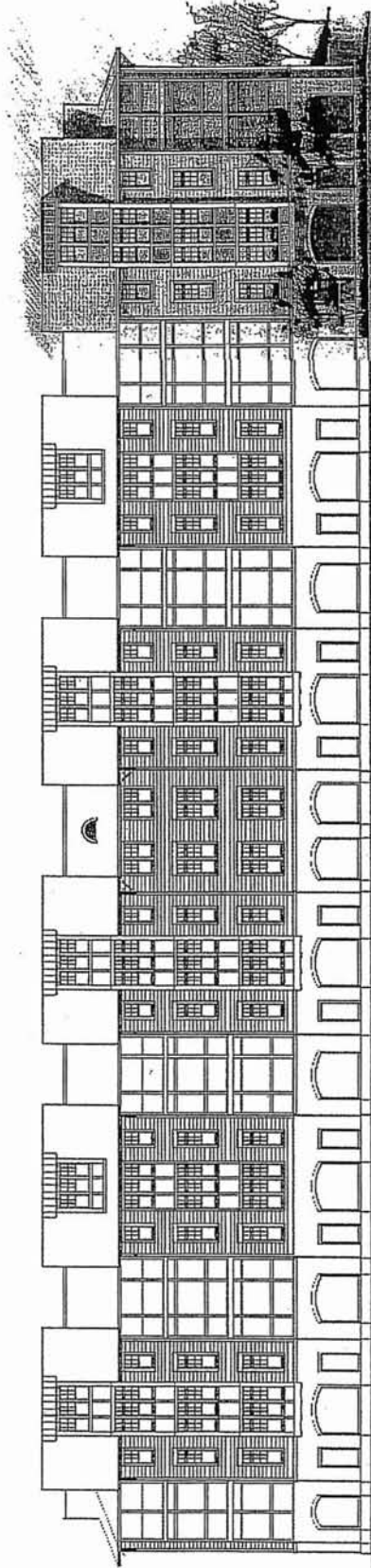
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CONCEPT BUILDING ELEVATION - FRONT



CONCEPT BUILDING ELEVATION - REAR

ARBOR POINTE VILLAGE
A NEW CONDOMINIUM COMMUNITY BY SEAS, INC.

EXHIBIT B2

6-23



gs architecture
4 Brunswick Court
Durham, NC 27603
919-485-2025

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CONDITIONAL DISTRICT REZONING

PLANNING DIVISION PETITION FOR CHANGE OF ZONING OF PROPERTY

City of Wilmington, NC
Planning Division

P. O. Box 1810, 305 Chestnut St, Wilmington, NC 28402
Telephone: (910) 254-0900 FAX: (910) 341-3264

(Please read application thoroughly before completing)

Section A. APPLICANT INFORMATION

The petitioner requests that the City of Wilmington Zoning Map be amended as indicated below :

NAME OF APPLICANT/PETITIONER: **Stewart Engineering/ Steve Thomas**
MAILING ADDRESS OF APPLICANT: **260 Town Hall Drive/ Morrisville, NC 27560**
PHONE NUMBER/ E-MAIL OF APPLICANT: **(919)380-8750/ sthomas@stewart-eng.com**

PROPERTY OWNER INFORMATION (If different from the applicant):

Name(s) **Arbor Pointe, LLC/ Steve Silverman**
Address: **905 Arboretum Drive, Wilmington, NC 28405**
Telephone: **(910)256-9966** FAX: **(910)256-9970**
E-Mail Address: **sssdev@ec.rr.com**

PROPERTY INFORMATION: The following information is required to provide the necessary information to process the rezoning request:

ADDRESS OF REQUESTED SITE: **527 Old MacCumber Station Road**

NEW HANOVER CO. PROPERTY IDENTIFICATION # (PIN): **R05100-002-007-000**

CURRENT ZONING DISTRICT(S): **R-15** PROPOSED ZONING DISTRICT(S): **MF-M (CD)**

TOTAL SITE ACRES/SQUARE FEET : **14.90 Acres +/- (649,044 sf)**

PROPOSED CONDITIONS FOR THE SITE, INCLUDING USE(S):

See Attached Site Plan (Exhibit "A")
See Attached Architectural Schematics (Exhibits "B1" & "B2")
See Attached "Exceptionally-Designed Project" Analysis (Exhibit "C")

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It is important that the applicant provide information to explain how the rezoning request satisfies the following questions. Please use attachments if necessary:

1. What changed or changing condition(s) justifies the passage of the amendment? (Discuss how circumstances have so changed since the property was last zoned).

The original residential zoning was consistent with the rural character of the property at that time. Since then, the development of retail, commercial, and office space on Military Cutoff Road at developments such as Mayfaire, the Forum, Renaissance Park, etc. has transformed the area, increasing the demand for moderately-priced housing for executives, "empty-nesters", and young professionals.

2. Explain how the map amendment would be consistent with the City's Future Land Use Plan and adopted special area plans (i.e. corridor plans, neighborhood plans, Vision 2020 Plan, etc).

Though the Future Land Use Plan does not identify this property (or any other along Military Cutoff Road) for proposed changes in land use, this project is entirely consistent with the "General Elements" identified in Chapter 3 of the Plan. In particular, the City's "Environmental Resources" are enhanced by the identification of this property as an "Exceptionally Designed Project" according to the standards of Article 10 of the Wilmington Land Development Code (see attachment "C"). Also, "Level of Service" standards are improved by the location of a quality medium-density residential project within a short walk or bike ride from emerging employment centers along Military Cutoff Road.

3. Explain briefly the expected effect on the neighborhood if the proposed zoning map amendment is approved.

The impact on the neighborhood will be minimal, and consistent with current and expected uses. This is one of only three properties that front onto Old MacCumber Station Road with access to Military Cutoff Road, the others being a commercial building (Remax Properties) and a trailer park. A Traffic Impact Analysis has been prepared and submitted to the City and to NCDOT confirming that no offsite improvements will be required for auto trips generated by this project. It's important to note that the proposed condominium units will not be occupied until after the completion of the widening of Military Cutoff Road to a 4-lane divided road (projected for mid-2007).

4. Other circumstances which tend to justify the amendment in the public interest.
 - Significant additional tax base for the City and County.
 - Minimal impact on schools from the anticipated market (young professionals and "empty nesters").
 - This project is consistent with "New Urbanist" planning principles, involving locating a range of uses within walking distance to create a pedestrian-friendly urban environment.

Section B. SUBMITTAL INFORMATION AND PROCEDURE

- (1) Supplementary Information is **REQUIRED** as part of the application. See Section C below for required information.
- (2) The petition **MUST** be reviewed by the Planning Division for completeness PRIOR to the acceptance of any application or petition. Please do not simply leave your application materials without speaking to a Planner. If you do, your application may not be processed and your request might not be considered at the next Planning Commission meeting.

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- (3) A fee in accordance with the approved fee schedule, payable to the City of Wilmington must accompany the application.
- (4) The Planning Commission will consider the application, if properly completed, at their next regular meeting. The petitioner or his/her agent should appear at the meeting. Meetings are held at 6:00 P. M. in the Council Chambers, City Hall, 3rd and Princess Streets, Wilmington, North Carolina on the first Wednesday of each month. Petitioners will be informed of any change in date, time or location of meetings. **Petitions and the required supplementary information must be received** in the Planning Division, 305 Chestnut Street, Wilmington, NC 28401, **thirty (30) working days before the Planning Commission meeting** to allow time for processing and advertisement as required the North Carolina General Statutes.
- (5) Before a public hearing may be held on the petition, **the applicant must file**, in the office of the City Clerk (a copy to the Planning Division), a **written report of at least one community meeting** held by the applicant. Please use the **attached "Report of Community Meeting"** for the report. **No other document will be accepted.** The community meeting **shall be held prior to** the to the Planning Commission's consideration of the petition. Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by policies approved by the City Council. **The report shall include**, among other things, a listing of those persons and organizations contacted about the meeting, a roster of the persons in attendance, a summary of issues discussed, and a description of any changes to the rezoning petition by the applicant as a result of the meeting. In the event the petitioner has not held at least one meeting as required, the applicant shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed shall be considered by the City Council but shall not be subject to judicial review.

Section C. SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION

PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF). Please check the list below carefully before you submit:

- ☒ Completed application form;
- ☒ Agent form if the applicant is not the property owner;
- ☒ Ten (10) 24" X 36" copies of the site plan and one (1) 11" X 17" of the site plan (See Section D below for the minimum amount of information required on the site plan); **PREVIOUSLY SUBMITTED**
- ☒ A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date and north arrow: **PREVIOUSLY SUBMITTED**
- ☒ Legal description of property requested for rezoning, by metes and bounds; **PREVIOUSLY SUBMITTED**
- ☒ Application fee (checks payable to the City of Wilmington); **PREVIOUSLY SUBMITTED**
- ☒ List of the names of owners, their addresses and the tax parcel numbers of the properties immediately adjacent to the subject property, including those separated by a street right-of-way;
- ☒ Two (2) sets of business size stamped envelopes with the adjacent property owners listed above addresses on them.
- ☒ Copy of the New Hanover Tax map which delineates the property requested for rezoning.

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Section D. REQUIRED INFORMATION TO BE INCLUDED ON THE SITE PLAN

The following information is required to be shown on the site plan submitted with this application. If, for some reason, any of the required items below are not included on the site plan, reasons for excluding those requirements must be given.

- ☒ Approximate location on the site of proposed buildings, structures and other improvements;
- ☒ Approximate dimensions, including height of proposed buildings and other structures;
- ☒ All existing easements, reservations and rights-of-way;
- ☒ Proposed use of land and structures, including the number of residential units and the total square footage of any nonresidential development;
- ☒ All existing and proposed points of access to public streets;
- ☒ Generalized traffic, parking and circulation plans;
- ☒ Approximate location of all existing and proposed infrastructure on the site including water, sewer, roads and pedestrian walkways;
- ☒ All yards, buffers, screening, and landscaping required by the Zoning Code or proposed by the petitioner;
- ☒ Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for the City of Wilmington;
- ☒ Adjoining property lines;
- ☒ Tree survey, if required by the Zoning Code;
- ☒ Site Inventory as required by Chapter 17 of the Code;
- ☒ Proposed phasing, if any;
- ☒ The names and deed references of current adjoining property owners;

Note that in the course of evaluating the proposal, staff, the Planning Commission or the City Council may request additional information from the applicant. The additional information may include the following:

- Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
- Existing and general topography, at four-foot contour intervals or less;
- The location of significant trees on the subject property;
- Scale of buildings relative to abutting property;
- Building elevations and exterior features of proposed development;
- Any other information needed to demonstrate compliance with this Chapter; and
- Proposed number and locations of signs.

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OWNER'S SIGNATURE*: In filing this application for a zoning map amendment, I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief. I hereby designate STEVE THOMAS, PE to serve as my agent regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to represent me in any public meeting regarding this application.

Signature/Date:

Walter Winters Member Manager
11/16/05

DATE RECD:

PLANNER:

CASE FILE #:

FEE PAID \$:

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ATTACHMENT 6

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Exceptionally Designed Project Narrative

(Updated September 17, 2007)

This narrative describes measures taken and design choices made on the Arbor Pointe Condominiums project that qualify it as an *Exceptionally Designed Project* according to Article 10 of the City of Wilmington Land Development Code. The purpose of this Code is to encourage Low Impact Design (LID) and to encourage progressive and environmentally-sensitive engineering on Land Development projects. In order to be classified as an *Exceptionally Designed Project*, it is necessary to demonstrate both a satisfaction of the baseline criteria and exceptional design on the project deserving of credits as detailed in Article 10. This update is provided to comply with staff request, as Article 10 has undergone revision since our last submittal of this narrative on November 16, 2006. This project satisfies the current criteria for an *Exceptionally Designed Project* in the following manner:

Section 18.543. Baseline Criteria

(a) Site Assessment

A detailed natural resource inventory and assessment shall be prepared before the conceptual site design is developed to identify and prioritize the natural resources requiring management through project planning. The inventory shall identify high-quality natural areas as part of the site analysis and shall be used to incorporate site sensitivity into the design.

A detailed natural resource inventory and assessment was prepared for the project identifying all high-quality natural areas on the project site. The Site Inventory Map was submitted under a separate application from the TRC submittal on October 5, 2005. The assessment was prepared by Steve Thomas, PE, LEED® AP of Stewart Engineering [Civil Engineering], Bo Harrison, AIA of GS Architecture [Architectural], James Taylor with Southern Environmental Group, Inc. [Environmental], John Bauerlein, PE of Mandala Services Inc. [Traffic Engineering].

While the Site Inventory Map for this project was prepared *in conjunction with* rather than *before* the conceptual site design, the conservation of high-quality natural resources has been a primary concern of the design team from the start of the design process. Since most of the site has been forested recently, it was initially apparent that the "high-quality natural area" on the project site is the wetlands area at the eastern edge of the property. In response, the buildings have been oriented to both preserve, and to provide views towards the wetlands area, which is generally defined by a steeply sloped edge transition from the "buildable" portion of the site.

Subsequent to siting the buildings, it was determined by an environmental engineer that a "finger" of wetlands plant species is growing on higher slopes than expected, creating a wetlands encroachment of approximately 0.25 acres at Building #5. The possibility of relocating that building was considered, but it became apparent that to do so would adversely affect the proposed stormwater drainage plan. The Owner has decided to mitigate the area in question by adding additional constructed wetlands in excess of minimum requirements of the U.S. Army Corps of Engineers (Army Corps).

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A key component of the effort to enhance the project site involves the location of the bulk of surface parking underneath the buildings, allowing the creation of a "Village Green" environmental amenity onto which each of the buildings front. In order to achieve this, the "Village Green" has been raised several feet above existing grades, with lower level parking areas located at or below existing grades. The possibility of "lowering" the buildings to finish grades closer to the existing site grades has been considered, but would require significant retaining walls at the perimeter of the site, and make positive fall from lower level parking areas to site drainage impossible to achieve.

The Site Assessment involved professionals in the environmental, architectural, and civil engineering fields in order to adequately address all aspects of the design to the City Manager. It is our belief that the proposed development is configured in a manner that will cause minimal disturbance to the high-quality natural resources that exist on the site during the construction period, and would cause little or no negative impact on these resources over the future of the project. The design of the Stormwater Management systems (pervious pavement and infiltration basins), the construction of additional wetland areas, and the positioning of construction predominately outside of the impact areas for these resources will yield an overall increase in the quantity and quality of high-quality natural resources on the site.

The proposed layout will require approvals from both North Carolina Department of Natural Resources (NCDENR) and from the Army Corps, both of which are being pursued currently. The stream at the eastern edge of the property, a tributary of Howe Creek, is classified by NCDENR as a Saltwater Outstanding Resource Water (saltwater ORW) and is subject to special regulations as such. The portion of the property within 575 feet of the high water mark of the creek is classified as Low Density (per NCDENR code) and must have a built-upon area of no more than 25%. This area requires the use of vegetative swales only to treat stormwater. The portion of the site located more than 575' from the creek is classified High Density (per NCDENR code), and is required to use stormwater infiltration basins to treat the first inch of rainfall onto the site. Neither portion of the site can employ piped conveyance systems to collect and distribute runoff, so the site is designed to treat runoff very close to where it falls by using curb cuts draining to infiltration basins, pervious pavement systems, and infiltration basins/ vegetated swales behind the buildings.

Wetland mitigation required for the project will be coordinated with the Army Corps. Due to the small area of planned impact to the delineated wetlands, the project proposes to mitigate the impact by constructing new wetlands adjacent to the existing wetlands. These additional wetlands will be constructed in a manner acceptable to the Army Corps and to NCDENR. All applicable permits will be obtained from both the Army Corps and NCDENR before construction commences.

A Site Context Map has been included with this re-submission to illustrate the relationship of this project site to patterns of existing development and/or natural features on other properties within a 2,000 foot radius of the outside borders of the project site (see attachment SK-1). A new sidewalk will be constructed along Old MacCumber Station Road to provide pedestrian access to adjacent properties. Though there are no existing or proposed greenway trails near the project site, the



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Owner would be amenable to providing access through the wetlands area for a future trail if necessary.

(b) Development Plans

A conceptual Site Development Plan drawn to scale must be submitted to the Development Services Department that demonstrates to the satisfaction of the City Manager that all the requirements of this section are met. The plan must technically and visually illustrate the development potential achievable for the project site, and demonstrate that the innovative design proposal will achieve a net improvement in the functional value of the streams and wetlands and their buffers over that existing on the subject property and beyond that which is achievable using the provisions of Article 14, Division III herein. The plan must clearly demonstrate how the project meets the criteria in this section to qualify for any density adjustment.

A Development Plan for the project has been submitted which demonstrates that all requirements of Sec. 18-543 have been met. The Site Inventory Map serves to demonstrate that a full evaluation of the environmental impacts of the project have been taken into account. The Plan technically and visually illustrates the development potential achievable for the project site and demonstrates the project includes innovative design initiatives that will achieve a net improvement in the functional value of the stream and wetlands on the property. The proposed environmental considerations will provide benefits greater than what would be achievable using the provisions of Article 14, Division III herein.

This project utilizes innovative and sustainable design techniques in order to ensure that the environment will be improved as a result of the development. The design of the condominium buildings themselves incorporates parking (as required by the City) under the buildings. This innovative (and costly) measure reduces the amount of surface parking considerably, reducing built-upon area and minimizing site impact. With the use of infiltration techniques, pervious pavement, and vegetative swales, the proposed design will yield a net improvement in the stormwater runoff on the site. Likewise, while the layout proposed does include minimal impact to established wetlands (roughly .25 acres), the project will construct new wetlands in excess of that amount, yielding a net increase in high-quality natural resources. See attached Site Plan for exhibit showing the existing disturbed wetlands and the proposed created wetlands.

(c) Low Impact Development (LID) Techniques

The project shall manage stormwater onsite through Low Impact Development (LID) techniques.

This project is a model example of managing stormwater on the project site utilizing Low Impact Development (LID) techniques. The project is subject, due to proximity to a Saltwater ORW (described above), to meeting the most stringent requirements of NCDENR, Division of Water Quality with regard to methods of treatment for stormwater runoff. To this end, the development has been designed with the maximum possible stormwater quality and quantity measures to assure a net improvement on the site as a result of this project. All pavement used on the



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project will be of a pervious design, essentially allowing roadways and walkways to act as infiltration basins at the very point of impact. Any water which runs off the roadways will flow through curb cuts into an infiltration basin located in the "Village Green" in the center of the development. All roof drainage is piped either into this infiltration basin, or to ones located directly behind each building. All other runoff on the project is conveyed via vegetated swales along the border of the limits of disturbance before being released into the wetlands south of the project site. The entire system serves to actually reduce the pollution and pre/post runoff from the site by infiltration and increase the time of concentration, both serving as the foundations of LID design.

The following elements of LID design are satisfied:

- a. **Small scale techniques** to manage precipitation as close as possible to where it hits the ground are utilized throughout the project in several ways. Any rainwater that hits the roadway surfaces is instantly managed using the pervious pavement infiltration system. Any rainwater that exceeds this system's capacity will be immediately diverted to the adjacent infiltration basin at the nearest curb cut. All roof drainage is piped either directly to the main infiltration basin or to a vegetative swale directly behind the building.
- b. The project utilizes **strategic placement of linked "lot-level" controls** that are customized to address stormwater timing, flow rate, and volume. The infiltration basin in the "Village Green" is designed to hold the design first inch of its drainage area. Any additional flow is diverted to the vegetated swale located behind building #5. Roof drainage from building #2 is drained into a small infiltration basin that is located behind that building. Any flow over the first inch will overflow into the downstream vegetated swale. These measures effectively shift and reduce the peak hydrograph of a storm event and lessen the impact of the storm on any one component of the system.
- c. Vegetated swales, infiltration basins, and pervious pavement all serve as **devices that allow infiltrating rainfall**.
- d. **Site fingerprinting (minimal disturbance techniques)** is defined as minimizing the extent of clearing and grading, thereby minimizing the hydrological impacts of a project. This project exemplifies this principle by its compact layout and the innovative placement of parking under the buildings. It should also be noted that the proposed development is located on a site which was disturbed within the past several years. With that in mind, this development should be considered an improvement of the existing land use. The following are goals of Site Fingerprinting that will be accomplished through this project:
 1. **Reduce pavement and compaction of highly permeable soils** - This goal is achieved through the placement of parking under the buildings. This design feature greatly reduces the amount of disturbance that would be required if City requirements for parking were met in the customary manner with a large surface lot. The use of three story condominiums also makes the most efficient use of space, minimizing the footprint required to meet the desired



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development occupancy.

2. **Minimizing the size of construction easements and material storage areas, and siting stockpiles within the development envelope** – This is easily accomplished for the proposed project, as there will be no proposed construction easements necessary and the contractor will be required to perform any staging or stockpiling within the designated disturbed area.
3. **Delineating and flagging the smallest site disturbance area possible** – This will be accomplished as shown on the plan. The disturbed area has been minimized as much as is practical. Again, the siting of parking areas under the footprint of the buildings helps achieve this goal.
4. **Siting building layout and clearing and grading practices to avoid removal of existing trees of all sizes** – This requirement is met by the placement of the development largely in the center of the property, which has been recently forested and contains no specimen trees of significant size or character.
5. **Minimizing imperviousness** – This requirement of Site Fingerprinting has been met to the fullest by the use of pervious pavement for all paved surfaces. The only impervious surfaces on the project are the roofs, which are also minimized as described above under #1.
6. **Disconnecting as much impervious area as possible** – This goal is accomplished by providing grass buffers between the buildings and the roadways, as well as a number of vegetated swales which disconnect impervious surfaces.
7. **Maintaining existing topography and associated drainage divides to encourage dispersed flow paths** – This project, in re-grading the entire disturbed area, actually corrects an existing concentration of flow in a channel located along the northern edge of the property. The grading plan proposed for the site would greatly extend the flow paths and the time of concentration, though the series of stormwater measures proposed.



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Section 18.544. Scaled Criteria

This project has applied for rezoning to Multiple Family Residential District – Medium Density rezoning (MF-M). In order to allow conditional rezoning of the project from the existing R-15 to MF-M, the project requires classification as an *Exceptionally Designed Project*. The development density we have proposed falls below the 25% impervious requirement (24.90%) for Watershed Protection Areas (WRP). In addition, we are proposing 12.38 Units per acre, based on 186 condominium units and a 15.03 acre site, which requires the project to earn **80 points** under the MF-M zoning we are concurrently applying for to achieve the *Exceptionally Designed Project* status. Through a combination of site planning, material selection, and use of innovative stormwater treatment and retention methods, we believe the design qualifies for **120 points**, based on table 2 in Section 18.544. This point calculation is shown on the attached spreadsheet entitled, "Summary of Points Claimed toward Exceptionally Designed Criteria". The following is a breakdown of the areas of exceptional design as described in the text of Section 18.544:

- a) **Wetland Function.** Ensure the perpetual maintenance of characteristic wetland functions and habitat through preservation of contiguous natural wetlands. To qualify for points, the wetland feature to be preserved must be greater than one (1) acre in size and must be wetland area that is not otherwise subject to protection under some other local, State, or Federal regulatory provision. *The project claims 15 points in this category, as over 75% of the existing wetland area will be preserved and additional wetlands will be created to mitigate the disturbance to existing wetlands.*
- b) **Shoreline/Riparian/Wetland Buffers.** *No claim made.*
- c) **Impervious Surfaces.** The total impervious area on the site has been held to 24.90% (see attached spreadsheet for calculations) through the use of pervious pavement for all roadway surfaces and the storage of vehicles below the condominium buildings, significantly reducing the amount of above-ground parking surface.
- d) **Porous Pavement. Decrease imperviousness of hardened surfaces through use of porous pavement surfaces.** Pervious asphalt pavement and pervious concrete will be used for the roadways and sidewalks on the project. The reduction in impervious area through the use of porous pavement has been calculated in accordance with the Division of Water Quality 2007 Stormwater BMP Manual. A credit of 40% as managed grass has been taken for areas where porous pavement is proposed. (see attached spreadsheet for calculations)
- e) **Flood Zone Storage Capacity. Credit may be given**
- f) **Flood Zone Storage Capacity. Credit may be given to projects that maintain flood plain storage capacity and reduce uses in the flood plain that are dangerous to health, safety, and property due to water or erosion hazards.** This project proposes to limit development activities from occurring in or impacting the existing flood plain (FEMA FIRM panel 85 of 128 in New Hanover County; Community-panel #:



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370168 0085 E) which exists at elevation 10.0'.

- g) **Constructed Wetlands. Development of constructed wetlands for the replacement of lost wetland functions and habitat and for use in stormwater quality control.** Part of development plan is to construct approximately 0.28 acres of wetlands to replace that which is impacted by construction. These wetlands will be constructed in accordance with NCDENR, DWQ Best Management Practices.
- h) **Stormwater Controls.** This credit requires that the project reduce the total pollutant load leaving the site and minimize changes in overall site hydrology by use of LID techniques, or a combination of LID and conventional techniques. The stormwater runoff from the site will be retained using infiltration basins and a wet pond to be sited in the southwest corner of the site. The project will utilize low-impact design by minimizing the use of piped stormwater collection systems and using instead vegetated swales to convey runoff. The project meets or exceeds the specific requirements of this credit. A stormwater management plan, including an approved maintenance plan and schedule, will be submitted for review with the construction drawings.

Through the use of vegetated swales, infiltration basins, and the pond, the post-development T_c will be lower than the pre-development T_c . Though there will be approximately 0.25 acres of total wetlands impacted by the development, all of that area (with the exception of 0.05 acres) will be restored to wetland quality in accordance with NC Division of Water Quality *Stormwater Best Management Practices* or some other design approved by the City Manager.

This project incorporates infiltration basins around the site which treats all runoff from the site. There will be a main infiltration basin located in the center "common area" which will treat a large part of the roadway drainage and about half of the building roof runoff. The roof runoff from building #2 will be treated in an infiltration basin which is located at the base of the building. This infiltration basin is dedicated to building #2 alone. The remainder of the runoff will run through vegetative swales at the base of all buildings and will be captured and treated in a large infiltration basin to be constructed on the south side of the site (behind buildings #4 & #5). These infiltration basins and vegetative swales will remove well over 97% total suspended solids (TSS) for the 1" storm.
- i) **Undeveloped Open Space.** No claim made.
- j) **Greenways.** The project makes no claims in this area at this time, due to a lack of City Greenway planned in the project area. If it is determined that the City would like to establish a greenway along the stream on the property, the Owner would be willing to dedicate an easement to the City for this purpose.
- k) **Habitat.** No opportunity for credit based on site conditions.
- l) **Shared Facilities.** No opportunity for credit based on site conditions.



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- m) **Resource enhancement.** No opportunity for credit based on site conditions.
- n) **Xeriscaping.** The project will utilize the advantages of xeric landscaping for at least 50% of the required landscaping on the project. It is the desire of the owner to create an environmentally friendly development, and this goal is aided by the planting of native species and establishing schedules of appropriate maintenance to ensure success. A maintenance plan will be submitted for review with the construction drawings and will be part of the agreement with the homeowner's association for the condominium owners. The plan will specify required plantings and soil types, and maintenance procedures to ensure the success and longevity of the xeriscaping. See the attached sketch for proposed locations of xeriscaping.

In summary, the Arbor Pointe Condominiums project has been designed with all of the best intentions of the *Exceptionally Designed Project* and should be given consideration and recognition thereto.

Impervious Surface Calculations - Arbor Pointe Condominiums

9/17/2007

On Low-Density Side:

<u>Description of Area</u>	<u>Area</u>	<u>Quantity</u>	<u>Total Impervious (sqft)</u>
Buildings (Large)	26715	2	53,430
Buildings (Small, partial)	7081	1	7,081
Buildings (Small, partial)	6333	1	6,333
Roads (pervious asph & conc.) (sqft)	39197	1	23,518 *
Sidewalk (pervious concrete) (sqft)	8600	1	5,160 *
Clubhouse	2940	1	2,940

Total Impervious (sqft) = 98,462

Area of side (sqft) = 497,877

Percent Impervious for side = 19.78%

(Must be below 25.0%)

Additional Impervious allowed on low-density side (sqft) = 26,000

On High-Density Side:

<u>Description of Area</u>	<u>Area</u>	<u>Quantity</u>	<u>Total Impervious (sqft)</u>
Buildings (Large)	18715	1	18,715
Buildings (Small, partial)	6869	1	6,869
Basketball Court	4200	1	4,200
Buildings (Small, partial)	11633	1	11,633
Roads (pervious asph & conc.) (sqft)	21272	1	12,763 *
Sidewalk (pervious concrete) (sqft)	2930	1	1,758 *

Total Impervious (sqft) = 55,938

Area of side (sqft) = 122,196

Percent Impervious for side = 45.78%**OVERALL PERCENT IMPERVIOUS FOR SITE = 24.90%**

* 40% Credit as Managed Grass (Table 18-1 2007 DWQ Stormwater BMP Manual)

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Summary of Points Claimed toward Exceptionally Designed Criteria			
Group	Category	Measure as designed on Arbor Pointe project	Points Claimed
A	Wetlands	More than 75% of existing wetland area will be preserved and wetlands will be created	15
B	Buffers - Wetland / riparian / resources / habitat	No credit claimed	-
C	Impervious Surfaces	With the use of pervious asphalt & pervious concrete, we have 24.90% impervious on the site	5
D	Flood Zone storage area - volume of storage, cf	Project will preserve the existing floodplain	5
E	Stormwater Retention	With the abundant use of Infiltration basins around the project, it will be possible to retain the 5/25/50 year storm	20
F	Stormwater Pollutant Reduction	Using the infiltration basins and vegetative swales, we should achieve <u>at least</u> a 97% TSS removal	20
G	Site Design - LID	Post-development Tc mimics pre-development Tc	20
H	Decreased Impervious surface through use of approved porous surface	Site has 100% pervious pavements	20
I	Species / Native Habitat or Ecological Communities Preservation	Not available for this project	-
J	Share Water resource facilities - docks/water access	Not available for this project	-
K	Other Resource Enhancement - stream / riparian	Not available for this project	-
L	Greenways	Willing to dedicate easement, but no current plan to establish Greenway by the City	-
M	Open space (unimproved natural areas)	Not available for this project	-
N	Replanting (restoration) or a native plant community as a buffer for an existing natural area or restoration of any undeveloped open space	Not available for this project	-
O	xeric landscaping	All landscaping other than that which is located common area will be xeric in nature (at least 50% of total landscaping)	15
TOTAL =			120

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ATTACHMENT 7



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Resolution



ATTACHMENT 8

City Council
City of Wilmington
North Carolina

Introduced By: Thomas C. Pollard, City Attorney

Date: 08/07/2007

Resolution to Bring Forward Arbor Point Condominium Rezoning for Consideration

LEGISLATIVE INTENT/PURPOSE:

At its meeting on July 11, 2006, the Wilmington City Council tabled the consideration of a conditional district rezoning for property containing approximately 14.9 acres located at 527 Old McCumber Station Road from R-15 Residential District to MFM (CD), Multi-Family Medium Density Residential Conditional District for a 166 unit condominium ("Arbor Point Condominium Rezoning").

The Applicant has requested that this item be brought forward for consideration by the City Council.

THEREFORE, BE IT RESOLVED:

1. That the above Conditional district rezoning item shall be scheduled for public hearing before the City Council as soon as reasonably possible.
2. That the public hearing shall be advertised in accordance with the requirements of the General Statutes and the Land Development Code.

Bill Saffo
Bill Saffo, Mayor

Adopted at a regular meeting
on August 7, 2007.

ATTEST:

Paula Spicer-Sidbury
City Clerk



CERTIFIED TO BE A TRUE COPY
Paula Spicer-Sidbury
City Clerk

ATT. 9

Resolution



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 12/12/2006

Resolution Authorizing Staff to Utilize the "Criteria to Support Rezoning on Over Capacity Roads" in the Analysis of Rezoning Requests

LEGISLATIVE INTENT/PURPOSE:

The attached Resolution authorizes staff to begin utilizing the "Criteria to Support Rezoning on Over Capacity Roads" (see attached) as part of the analysis process for rezonings. The Criteria are intended to supplement the existing staff analysis that includes consistency with the Future Land Use Plan and other policy documents, consistency with the purpose of a proposed zoning district, consistency with the Land Development Code, compatibility with nearby uses, availability of adequate infrastructure to serve the development and other factors.

The Criteria were developed in response to increasing traffic congestion in the City. Approximately 30% of all major roads in the City carry more cars than they were designed to handle. Over 75% of the four main roads (College, Oleander, Market, Carolina Beach) are currently over capacity. Growth estimates project about 50% of all major roads and over 90% of the four major roads being over capacity in 2010.

The current congestion is the result of a number of factors including but not limited to decades of poor planning, poor roadway design, lack of options, market forces and driver behavior. Although a number of plans have been adopted and several roadway improvement projects have been funded, there is not adequate funding or undeveloped land available to construct the road improvements necessary to alleviate congestion on our major roads. More creative and diverse options will be necessary to improve traffic flow.

The Criteria were developed to encourage quality development and redevelopment to help fix the problems created by the decades of inefficient development. In the past year a number of projects that could have provided long-term benefits were denied or withdrawn from consideration because they were located on over capacity roads. City Council members and staff were concerned that a blanket approach of denying all rezoning requests that would add traffic to over capacity roads could stagnate the change needed for better development along our major roads.

The Criteria allow developers an option to provide evidence that their proposal would benefit the community by offsetting the traffic impact or by providing a more needed community amenity. The Criteria are strictly a policy guide and are not proposed to be codified. The impact of the Criteria for rezonings will be analyzed on a case by case basis. Staff anticipates that applicants

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will need to meet several but not all criteria in order to generate a sufficient benefit to offset the additional traffic.

Staff presented the proposed Criteria to the Planning Commission at its November 1, 2006 meeting. The Planning Commission unanimously recommended support of the Criteria.

THEREFORE, BE IT RESOLVED:

Staff is authorized to consider the "Criteria for Approval of Rezoning on Over Capacity Roads" as part of the rezoning analysis process.

Bill Saffo, Mayor

Adopted at a _____ meeting
on _____,

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

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City of Wilmington
Development Services Department
Planning Division

PO Box 1810 | 305 Chestnut St.
Wilmington, NC 28402
Telephone 910.254.0900 | Fax 910.341.3264

Proposed Criteria to Support Rezonings on Overcapacity Roads

1. Site is located in a priority economic development area
 - North Downtown
 - Industrial Park
 - 23rd Street Industrial
 - Medical Center
 - South Independence Boulevard (17th to Carolina Beach Road)
 - Military Cutoff
 - Oleander at Hawthorne
2. Use is a targeted economic priority industry:
 - Pharmaceutical
 - Film
 - Medical
 - Class "A" Office
 - Bio Tech
 - Research & Development
3. Site is located at an interconnected node of two major roads
 - Trips will be dispersed to at least two arterials or one arterial and one collector
 - Shared driveways for multiple uses provided
 - Frontage roads or alleys provided
 - Complete a collector road network
4. The base zoning or conditional district will ensure a more efficient and/or environmentally sensitive development pattern
 - Mixed use options for zoning –MX, MFMU, CDMU, MSMU, etc.
 - Exceptional Design Criteria met
 - Conditional District with plan for efficiencies and environmental sensitivity
 - Provides interconnections to adjacent developments and/or to signalized intersections; Closes existing driveways (Access Management)
5. Impact of additional traffic will be mitigated by a scheduled/funded City or State transportation project or by guaranteed developer improvements
 - Capital Improvements Program
 - Transportation Improvement Program
 - Transportation Impact Analysis Improvements (by developer)
6. Site is located in a Tier I Redevelopment Area and will meet all FLUP strategies for redevelopment
 - Access management
 - Signage
 - Drainage
 - Landscaping
 - Aesthetics
7. The proposed development will positively impact other critical infrastructure
 - Overcrowded schools
 - Regional drainage solution
 - Completion of bike paths/multi-use trails
 - Provision of parks and recreational land and facilities
 - Preservation of environmentally sensitive land substantially above minimum requirements

General guidelines not yet adopted by City Council. Please contact Planning Staff for official status.

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STEWART

March 2, 2007

Ron Satterfield, AICP
 Senior Planner / Interim Planning Manager
 City of Wilmington
 305 Chestnut Street
 Wilmington, NC 28402

Re: Arbor Pointe Condominiums - Conditional District Rezoning
 Case Number: CD-11-1205
 Site Address: 527 Old MacCumber Station Road

Ron,

As we discussed with you and Kaye Graybeal in your office on January 29th, we (myself, the applicant for this project, and Arbor Pointe, LLC, the owners) would like for the City Planning Department reconsider its previous recommendation for denial of the petition for conditional rezoning of the above project. I believe that in light of recent City policy updates (issued since the previous recommendation was given) this project deserves a fresh look and evaluation.

When we met, we discussed openly the *Criteria to Support Rezoning on Overcapacity Roads* which was recently adopted by the City of Wilmington. This criteria was developed to "untie" the hands of the planning staff who were being forced to recommend denial for rezoning petitions for good proposed developments simply because the tributary roadways were experiencing higher than design traffic flows. The intent of this new policy, as we understand, is to allow a site to be rezoned if it is demonstrated that the project has merits that outweigh any contributions to traffic problems from the project. The *Criteria* outlines seven (7) major areas in which a petitioner has opportunity to prove their project meets this intent. We further understand that the judgment of whether or not a project has met the intent of the *Criteria* has been left intentionally open to City interpretation, as the value and feasibility of the different characteristics varies widely from project to project and location to location. We commend the City on this progressive addition to their policy and fully support its intended purpose.

With that said, we believe the Arbor Pointe Condominium rezoning petition meets the intent of the *Criteria to Support Rezoning on Overcapacity Roads* and may even have inspired its very creation. While not providing contributions in all of the areas outlined in the *Criteria* (many of the criteria are inherently site-specific and do not allow this project to address), the project exemplifies the intent of the *Criteria* in the following ways (*note: items are numbered as they are in the policy text*):

4. The base zoning or conditional district will ensure a more efficient and/or environmentally sensitive development pattern.
 - a. Mixed use options for zoning - MX, MFMU, CDMU, MSMU, etc.
 - o We are petitioning for rezoning to MF-M (CD)
 - b. Exceptional Design Criteria met

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STEWART

- Project has been designed to exceed the minimum requirements of the Exceptional Design Criteria and has demonstrated this on submitted plans and narrative as part of this petition to the extent practical (without undergoing complete and final design of the engineered systems utilized). Final narrative supporting this classification has been attached to this letter for review and judgment regarding consideration and inclusion of sustainable design techniques, as required.
 - c. *Conditional District with plan for efficiencies and environmental sensitivity*
 - Project has been designed to include extensive aspects of sustainable and low-impact design. Many of these are described in the Exceptional Design Narrative (attached), but see this listing of measures employed (beyond that which is required by regulation):
 - ✦ Design of parking areas for residents to be located under the condominium buildings, **reducing surface parking by more than 260%.**
 - ✦ Commitment to use **pervious asphalt pavement** for entire development
 - ✦ Commitment to use **pervious concrete** for construction of curb & gutter throughout project
 - ✦ Commitment to use **zeroscaping** through a majority of the project site as a means to reduce water consumption by planting landscaping that requires no watering.
 - ✦ Commitment to improving water quality through design of **infiltration and bio-retention areas** throughout the site.
 - ✦ Commitment to **construction of new wetlands** on the project site for any that are disturbed.
 - It should also be noted that it has been indicated to the applicant by City of Wilmington Environmental Planner, Philip Prete that the project would be eligible for the City's "Stewardship Awards Program" designated expressly for projects which exemplify the very good, sustainable design which the City supports.
- 5. *Impact of additional traffic will be mitigated by a scheduled/funded City or State transportation project or by guaranteed developer improvements*
 - The widening of Military Cutoff Road is NCDOT TIP project U-2734 and is currently in progress. This project is scheduled to be completed this year. Old MacCumber Station road connects directly to this project.
- 7. *The proposed development will positively impact other critical infrastructure..*
 - e. *Preservation of environmentally sensitive land substantially above minimum requirements*
 - Through the wetlands we are committed to creating as part of this conditional rezoning, we are creating a net gain in wetland area. We are also reducing the stormwater runoff from the site (over the pre-existing condition), lessening erosive forces on the estuarial stream.

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Based on this summary of how our project meets the *Criteria to Support Rezoning on Overcapacity Roads*, we would request that Staff revise their previous recommendation for denial of this petition for conditional rezoning and recommend for acceptance of this exceptional project. The tool to improve the way development takes place in the City has been given to you – we implore you to use it.

If you find that you can change your recommendation to approval, please take any necessary steps to have this project placed on the next available City Council agenda for a hearing. Please let me know if you need any additional information or if you would like to meet to further discuss this request.

Thank you,

Steve Thomas, PE, LEED AP
Wilmington Civil Department Manager

SBT/sbt
Attachments

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